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FISCAL IMPACT STATEMENT

LS 6850

BILL NUMBER: SB 295

NOTE PREPARED: Feb 22, 2010

BILL AMENDED: Feb 22, 2010

SUBJECT: Family and Social Services.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR: Rep. C. Brown

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- (1) Establishes the Committee on the Administration of Public Assistance (Committee) and specifies the committee's responsibilities.
- (2) Authorizes the disclosure of a Social Security number for the administration of a state-funded health plan.
- (3) Specifies the amount and the manner in which the state is to complete in a timely manner the allotment process and distribute funds to the Area Agencies on Aging (AAA) for the provision of home and community-based services.
- (4) Specifies the notice procedures for the Division of Aging (DoA) and the Division of Disability and Rehabilitative Services (DDRS) to follow against certain providers regulated by DoA or DDRS.
- (5) Requires the Office of the Secretary of Family and Social Services (FSSA) to ensure that public assistance services are: (a) provided in a timely and safe manner; (b) provided in accordance with state and federal law; and (c) appropriate to the needs of the individual.
- (6) Imposes various requirements on the Division of Family Resources (DFR) concerning the provision of public assistance services.
- (7) Establishes the Office of Quality Control (Office) within DFR and sets forth the Office's duties.
- (8) Requires the Office to: (a) with the State Budget Agency, project the costs and savings of required changes; and (b) report to the Budget Committee and the Legislative Council on the status of implementing the required changes.
- (9) Requires the Office to post specified material on the Office's web site.
- (10) Requires Division on Aging to establish a provider network and a program and standards for providers of home and community-based services for persons in the CHOICE program.
- (11) Authorizes the Director of the DoA and DDRS to issue certain notice orders against a provider that

violates rules issued by the DoA for a program in which the provider is providing services.

(12) Provides the AAAs with flexibility in the management of certain program funding, and prohibits the DoA from imposing restrictions that are not in the DoA's contract with an AAA.

(13) Requires the dissemination of specified information as part of: (a) a nursing facility's notification to applicants; (b) the nursing facility preadmission screening program; and (c) the hospital discharge process.

(14) Allows spouses and parents of individuals who are at risk of being institutionalized to provide attendant care services, and limits the amount of services that can be reimbursed.

(15) Allows certain individuals who were convicted of a drug offense but have not been convicted of another drug offense in the previous 5 years to receive food stamps.

(16) Provides an exception to the 5-year prohibition to individuals who are receiving treatment and drug and alcohol testing.

(17) Allows an AAA to make presumptive eligibility determinations for the Aged and Disabled Medicaid waiver under specified circumstances.

(18) Provides for a part of specified federal dollars to be disbursed to local programs that provide prevention and treatment services to individuals who have been diagnosed with chronic substance abuse and dependence and are without significant or immediate treatment needs.

(19) Requires a family to receive a cash assistance benefit of at least \$10 under the Temporary Assistance for Needy Families (TANF) program if certain income standards and employment earnings are met.

(20) Specifies that access to a child support enforcement program and IMPACT (JOBS) training program are included as TANF services for certain eligible families.

(21) Changes the time frame in which certain Medicaid notices or bulletins may become effective, from 45 days to 30 days, after issuance.

(22) Specifies that certain recreation programs for school-age children may be exempt from licensure requirements.

(23) Removes language that specifies staffing requirements for the Evansville State Hospital and the Evansville State Psychiatric Treatment Center for Children.

(24) Establishes the Council for Evansville State Hospitals.

(25) Requires the release of certain mental health care information in certain circumstances.

(26) Transfers administrative rules concerning aging to DoA.

(27) Repeals: (a) a provision that requires the adult protective services unit and DoA to destroy any records concerning a report concerning an endangered adult that is unsubstantiated; and (b) the definition of "case management".

(28) Requires the FSSA to make certain calculations of savings, use the calculated savings, and ensure that costs for services do not exceed funding available.

(29) Makes technical changes.

Effective Date: (Amended) Upon passage; July 1, 2010.

Explanation of State Expenditures: (Revised) *Summary:* Under the bill, state TANF expenditures are expected to increase by approximately \$258,000 per year. Under the changes the Family and Social Services Administration (FSSA) plans for the Evansville Psychiatric Children's Center, state expenditures are expected to decrease by at least \$280,000 per year. The expected net fiscal impact from these two provisions is a \$22,000 decrease in state expenditures per year.

Additionally, by changing the definition of "continuum of care", state expenditures may change to the extent (1) previously covered services are not included or (2) additional services are included, in a revised definition made by FSSA. Any change in expenditures depends on the decisions of FSSA administrators.

The bill will also increase the workload and expenses of the Division of Mental Health and Addiction (DMHA) to staff and provide for the expenses of the Council on Evansville State Hospitals, also established by the bill. Increases in workload and DMHA expenditures will depend on the work and number of meetings held by the Council; however, any increase is expected to be minimal. Provisions concerning the establishment of the Committee on the Administration of Public Assistance would have routine administrative expenses and require no reimbursement for the Committee members.

Provisions concerning the evaluation of the eligibility system have an unknown fiscal impact. The bill requires evaluation reports, contracts, contract amendments, and any change orders or changes in reimbursement to be posted on the FSSA Internet web site, which should be a routine administrative expense.

The bill provides the following provisions are subject to the availability of funding:

(1) *Required Savings Calculations and Uses*: It is unclear at this time how the provision would interface with General Fund appropriation, disbursement, and reversion requirements.

(2) *Presumptive Eligibility (PE) Administrative Expense*: FSSA has estimated that administrative expenses of \$1.2 M would be required to implement the PE provision in the bill.

(3) *Presumptive Eligibility Program Expense*: Depending upon administrative actions, the state-operated PE provision could cost as much as \$7.0 M. However, if sufficient resources are already in place to expedite the entire waiver eligibility process, the cost could be as low as \$763,000. Savings that would be realized under the provisions of this bill would be related to the number of Medicaid nursing home admissions that would be prevented by the provision of home and community-based care services.

(4) *Provider Registry and Other Services*: These provisions require the Division on Aging to act as a statewide coordinating service for providers and consumers of self-directed care. The cost of the required services is not known at this time. However, FSSA anticipates information system upgrades and additional staffing would be necessary.

(5) *Office of Quality Control*: The bill establishes the Office of Quality Control within the DFR to establish, implement, and monitor minimum standards for training and evaluating caseworkers. It is not known at this time how much of this requirement is currently performed by existing state staff and by any contractor's staff.

(6) *DFR Records Requirements*: The bill requires the DFR to maintain specified records in the case file of each applicant in the county office of the recipient's residence. The status of the conversion of recipient case files to an electronic medium and the location of county records is not known at this time.

(7) *Fraud Prevention Plan*: The bill requires FSSA to develop a fraud prevention plan at the regional and county levels to address fraud issues. A report regarding the plan is to be electronically communicated to the Committee on the Administration of Public Assistance and the Legislative Council by December 31, 2010.

Additional Information:

Temporary Assistance for Needy Families Benefits: This bill will provide an additional \$10 per month payment to a recipient family under the TANF program if: (1) the family's income is greater than the established standard of need, (2) the family's gross income is less than 100% of the federal income poverty level, and (3) a parent or essential person receiving assistance has employment earnings.

According to FSSA, there was a monthly average of 2,154 employed \$0 TANF recipients between December of 2008 and November of 2009 that would be eligible for the additional benefit. This bill will increase annual state expenditures by a maximum of \$258,000 if all working TANF recipients were to receive an additional

\$10 a month payment. This provision may not require an additional appropriation if FSSA administrators elect to reallocate resources from other programs to cover the benefit increase. However, this could potentially affect reversions.

(Revised) *Food Stamps for Individuals with Felony Drug Convictions*: According to FSSA, opting out of the federal ban on providing food stamps to individuals with felony drug convictions is expected to have no fiscal impact. Currently, FSSA processes the food stamp applications of felony drug offenders, but denies these applicants food stamp assistance. Any additional benefits provided to applicants with felony drug convictions would be financed solely by the federal government. It should be noted the state may also experience an increase in the number of food stamp applications received and potential administrative cost savings by forgoing verifying criminal records of food stamp applicants.

(Revised) *Council on Evansville State Hospitals*: This bill establishes the Council on Evansville State Hospitals which will be staffed and funded by DMHA. Council members are not entitled to per diem or travel expense reimbursement. Increases in state expenditure and workload of DMHA are expected to be minimal.

Medicaid Rehabilitation Option: This bill changes the definition of "case management" under community care for individuals with mental illnesses. FSSA reports this change will have no fiscal impact and is intended to maintain compliance with federal regulation changes in the Medicaid program.

(Revised) *Evansville State Hospital and Evansville State Psychiatric Treatment Center for Children*: The bill removes certain statutory provisions concerning the administration of the Evansville State Hospital and Psychiatric Treatment Center for Children. FSSA reports that by removing this language, they plan to reduce staffing by seven full-time positions and combine functions of the two facilities, representing cost savings of approximately \$280,000 in staffing salary per year and unknown, but additional, cost savings by combining functions between the two facilities.

Destroying of Reports: This bill repeals statute that requires FSSA to destroy unsubstantiated endangered adult reports. This provision may decrease the workload of FSSA staff to destroy these reports, but may increase expenditures to maintain additional files. Changes in workload and expenditures are unknown, but expected to be minimal.

(Revised) *Changes in FSSA Workload*:

(1) *Day Care Licensure*: (Increase) The bill adds that certain recreation programs are only exempt from licensure requirements if the children that attend are of school age. The number of day care centers that would require licensure under the change is indeterminable, but is expected to increase.

(2) *Destroying Records*: (Minimal Decrease) The bill removes provisions that require the Division of Aging to destroy unsubstantiated endangered adult report records.

(3) *Release of Social Security Number*: (Minimal Increase) This bill would allow FSSA to disclose the Social Security Number of individuals for the purpose of the administration of a state-funded health plan.

(4) *Continuum of Care*: (Minimal Increase) The bill changes the definition of the continuum of care and allows FSSA to use rule promulgation to define it for the purposes of mental health treatment.

(5) *Orders for Violating Providers*: (Increase) Under the bill, the directors of the DoA and DDRS would be allowed to issue orders against providers that violate rules created by either division for the administration of programs.

(6) *Savings Calculation*: (Increase) FSSA would be required to calculate cost savings for each state fiscal year that may result from the use of community-based services as opposed to nursing facility services.

(Revised) *Savings Calculations and Uses:* The bill also requires FSSA to calculate the savings in each state fiscal year that result from the use of home and community-based services compared to nursing facility services and use these calculated savings to purchase home and community-based services for additional individuals. It is not clear how any savings in one year would interface with the annual appropriation since unobligated General Fund appropriations revert to the General Fund at year end (and are not available for expenditure in a subsequent year unless specified by the General Assembly).

(Revised) *Presumptive Eligibility:* The bill would establish a state-funded presumptive eligibility program for Medicaid Aged & Disabled (A&D) waiver applicants. The cost of this provision is associated with the number of waiver slots available; if there are no waiver slots available there should be no expenses incurred. This would also eliminate any potential for Medicaid savings from the diversion of individuals from more expensive nursing facility placements. Presumably, any services provided that are not eligible for Medicaid reimbursement would be funded by the CHOICE state appropriation or other federally and state-funded programs operated by the AAAs.

FSSA reports that about 4,800 applications for A&D waiver services are received annually. Based on the experience in Ohio, about 55% of these applications might be eligible for the PE process, resulting in about 2,640 individuals that might be started on services after an initial assessment as provided in the bill. FSSA reports that federal matching funds are not available for waiver services until a care plan is approved. As of June 2009, AAAs on average were taking 44 days to submit care plans to DoA for approval and DoA required 6 days to approve the plans for a total of 50 days until federal matching funds would be available for waiver services. Waiver services cost approximately \$49.80 per day in 2009. If no changes were made to the system, approximately \$6,573,600 in 100% state-dollar expenditures would be required to fund services provided within the 50-day period of time. If services were authorized for a total of 90 days, and an initial 8% PE error rate is assumed (as experienced in a Kansas pilot program), another \$420,000 might be incurred for services for individuals subsequently found to be ineligible.

A total of approximately \$7.0 M would be required for this program if no changes are made to expedite the process as is done in other states. With both expedited (1) care plans and (2) Medicaid application processes, other states are making decisions in as little as 2 to 4 days. Depending on administrative action, if the care plans could be developed and approved in 5 days, and the PE error rate were as high as 2%, the program could cost \$763,000 to provide the services. The level of resources used in other states to achieve the necessary actions and how they compare to the level of resources currently available in Indiana is not known at this time.

(Revised) *Office of Quality Control:* The bill establishes the Office of Quality Control to establish, implement, and monitor minimum standards for training and evaluating caseworkers. It is not known at this time how much of this requirement is currently performed by existing state staff and by any contractor's staff. This provision would require at a minimum, a reorganization of the existing DFR staff. With the addition of more state-employed caseworkers as provided by the bill, any additional resources necessary to perform the required work would have to come from existing appropriations. It is not known at this time if resources above the level of the existing contract and budget would be necessary to transition the privately contracted services to operation by the state.

(Revised) *Flexibility of Service Funding by AAAs:* This provision would not allow FSSA to impose any additional regulation of AAAs outside of contractual agreements, presumably allowing the AAAs to use

CHOICE or other appropriate funds to provide funding to pay for PE determination services provided that are later determined to be ineligible for Medicaid A&D waiver services. The bill would require FSSA, the sole state agency that is accountable to the federal government for the use of federal funds, to turn over responsibility for the expenditure of funds to 16 AAAs after the contracts with FSSA are executed. The cost of this provision would depend on administrative actions; FSSA could write the terms of the contracts to provide for more administrative control. This could increase administrative expense as contract amendments would be a method for maintaining accountability.

(Revised) *A&D Waiver Considerations*: The bill does not require additional waiver slots be made available. If no waiver slots are available and individuals are placed on a waiting list, there should be no expenses associated with the provision of services. Any potential for Medicaid savings to be achieved by diverting nursing home admissions to less expensive A&D waiver services would also be eliminated. FSSA reported that 463 Medicaid applicants were added to the A&D waiver waiting list in the month since the available 10,409 waiver slots were filled December 3, 2009. FSSA also reported that an additional 1,000 waiver slots are budgeted to open at the beginning of FY 2011 and FY 2012. If PE is in place when the slots become available, the resources necessary to process care plans and Medicaid applications on a timely basis may be overwhelmed, potentially increasing state dollars needed to provide services.

FSSA would be required to closely monitor presumptive eligibility determinations to ensure services are not provided to more individuals than there are available waiver slots. FSSA reports State Plan services cost about \$34 per day for waiver clients. Depending on the range of error rates experienced with an initial implementation, State Plan services provided to individuals subsequently found not to be Medicaid-eligible could be in a range of \$72,000 to \$287,000. The expense would be contingent on the prudent use of the option by the AAAs.

Savings in one area of the program can be applied to expenditures in another area internally within the budgeted appropriation. Savings as a result of this bill would depend on Medicaid nursing home admissions that would be substituted with home and community-based care services. Any resulting savings may or may not be available to expand services in the waivers. If the number of eligible participants entitled to Medicaid State Plan services expands above the projected levels in other eligibility categories, funding freed up by savings may be needed to provide entitlement services.

(Revised) *Rule Promulgation*: The bill would require FSSA to promulgate two sets of rules: (1) to determine home and community-based services that could be provided to Medicaid presumptively eligible applicants for A&D waiver services and (2) providing compensation for attendant care services provided by the parent of a minor child or a spouse. Rule promulgation can be provided within the level of resources available to the agency.

(Revised) *PE Administrative Expense*: FSSA reports that Medicaid information technology system requirements and training expenses to implement a presumptive eligibility option would require \$1.2 M. This estimate is based on the cost of implementing PE for pregnant women. The AAAs are not mandated to make PE determinations by the bill. The level of resources required for the AAAs to perform the PE is not known at this time. If additional resources would be needed to expedite the process, FSSA does not have resources to provide additional funding for the AAA contracts without cutting some other existing service.

(Revised) *Provider Registry, Training and Certification, and Hotline Requirements*: These provisions require the Division on Aging to act as a statewide coordinating service for providers and consumers of self-directed care. The cost of the required services is not known at this time. FSSA reports that staffing system

enhancements would be necessary to produce and maintain the required registry. Current training and certification activities include a one-year expense of \$180,000 for curriculum development and training for 100 home care workers. Ongoing training expenses are anticipated to be \$60,000 annually.

(Revised) *Compensation for Personal Attendant Services*: This bill allows parents of dependent children and spouses to receive compensation for personal attendant services provided for no more than 40 hours a week under rules to be promulgated by FSSA. This provision should be budget neutral since the individuals eligible for the services could have them provided by any provider. Attendant services included in the individual's care plan are limited to the hours of care needed. This provision would allow a close family member to receive compensation under circumstances defined by FSSA.

(Revised) *Distribution of Required Information*: It is unclear if creating the required contact and service information would be a service covered under the AAA contracts or if OMPP would need to provide compensation to have the specific lists developed. AAAs are required to provide this information within seven days of a person's admission to a nursing facility. It is not known at this time if the 16 AAAs have sufficient staffing resources to accomplish this requirement without additional funding.

Explanation of State Revenues: Summary: This bill removes language specifying 1/3 of the amount of (1) state revenue collected from gaming and alcohol sales and (2) federal funds received from the Substance Abuse Treatment and Prevention grant, are designated for local programs that offer substance abuse and mental illness treatment. The bill specifies that only a part of these funds collected be used for local programming, rather than 1/3 of the amount collected. The maximum amount of revenue that will no longer be specifically designated for local use is \$10.7 M per year.

Additionally, the bill may decrease state revenue from Class C infractions by repealing references to illegal activity concerning unsubstantiated endangered adult reports. Decreases in revenue from these provisions are expected to be minimal.

Additional Information:

Removing Statute Concerning Local Earmarks of Gaming, Alcohol, and Federal Funds: This bill changes language that requires the DMHA to allocate 33% of the revenue from (1) the Riverboat Admission Tax, (2) excise taxes collected on alcoholic beverages, and (3) federal money earmarked for Drug Abuse and Alcohol Abuse/Alcoholics Efforts so that only a portion of the funds would be designated for local programs that provide prevention, intervention, and treatment services to individuals who have chronic substance abuse or dependence and are without significant or immediate treatment needs for mental illness or severe emotional disturbance.

These provisions will not increase state revenue, but may increase revenue that is available for state use. FSSA reports approximately \$25 M was received in SFY 2010 from the federal government for drug abuse and alcohol abuse programs, of which \$8.25 M was designated to be provided to local programs. For FY 2009, approximately \$3.25 M in revenue was provided to the Addiction Services Fund from the alcohol excise tax, of which \$1.08 M would have been forwarded to local programs. Additionally, in FY 2009, a total of \$4.12 M was provided to DMHA from the Riverboat Admission Tax, of which \$1.37 M would have been forwarded to local programs. The total amount of revenue that will no longer be designated for local use is \$10.7 M per year.

Endangered Adult Reports: Currently, if an individual unlawfully discloses information in an unsubstantiated endangered adult report, the act is a Class C infraction. The bill removes endangered adult reports from the list of these offenses. The number of Class C infractions in the state may decrease as a result. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. However, any decrease in revenue is likely to be small.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Removing Statute Concerning Local Earmarks of Gaming, Alcohol, and Federal Funds:* FSSA reports the changes in this bill will not decrease revenue that is forwarded to the local level, but the change would allow more flexibility to redistribute funds to maintain state coverage.

Endangered Adult Reports: If there is a decrease in the number of court actions filed and judgments entered, local governments would receive less revenue from court fees. However, any decrease in revenue is likely to be small.

State Agencies Affected: FSSA.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Jessaca Turner-Stults, FSSA; Jim Dunn, FSSA; *Indiana Handbook of Taxes, Revenues, and Appropriations for FY 2009*; *Indiana Administrative Code*; *Program Inventory of Indiana's Social Services Agency* from December 2006; Beth Kowalczyk, Ohio Department of Job and Family Services, (614) 664-1535; FSSA. "Expediting Medicaid Financial Eligibility" Robert L. Mollica, National Academy for State Health Policy, July 2004.

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